NSP Overview - Program Objectives and Basic Requirements

Origins – Purposes

Housing and Economic Recovery Act (HERA) – July 30, 2008
Title III – see
http://www.hud.gov/utilities/intercept.cfm?/offices/cpd/communitydevelopment/programs/neighborhoodspg/hera2008.pdf

Legislation to Respond to the Foreclosure Crisis

Neighborhood Stabilization Program – one of several initiatives in HERA to respond to the mounting housing problem of foreclosures

Grants to States and Local Governments – partnerships with and participation of private for-profit businesses and nonprofit organizations

Supplement to Community Development Block Grant Program

Based on CDBG with special purposes, specific sub-set of allowed uses of funds, and other unique specified requirements

Initial HUD Guidance – NSP Notice – October 6, 2008
http://www.hud.gov/utilities/intercept.cfm?/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspnotice.pdf

Amendments to NSP – American Recovery and Reinvestment Act (ARRA) – February 7, 2009

Bridge Notice – June 15, 2009
http://www.hud.gov/utilities/intercept.cfm?/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp1_bridgenotice.pdf

Information and guidance documents

Compilation of Frequently Asked Questions (FAQ)
http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspfaq.cfm

HUD Guidance on NSP Requirements
http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/requirements/index.cfm

HUD NSP Policy Guidance

http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/policyguidance/index.cfm

Allocation and Targeting of Funds

"Congress intended this funding be targeted to areas of greatest need based on the number and percent of foreclosures, subprime mortgages and delinquencies and defaults." [FAQ 8/12/09, page 31]

Distribution formula and allocation amounts included with NSP Notice

States (mandatory minimum) and many CDBG Entitlement jurisdictions receive direct allocation of NSP. For further details on the formula allocation methodology, see: http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nspfa_methodology.pdf

Application for allocated NSP funds through Substantial Amendment to jurisdiction's Consolidated Plan with streamlined public participation requirements (see NSP1 Notice for Substantial Amendment content and process details).

Colorado Plan – NSP Substantial Amendment

Targeting and allocation of funds followed three part strategy -

Supplement funding for communities that received a direct allocation of NSP funds from HUD

Provide NSP funds to "First Tier" communities that rated highest on foreclosure and related need factors

Meet needs of communities in the "Second Tier" need category using NSP Program Income

Colorado NSP Substantial Amendment on DOH website at: http://www.dola.state.co.us/cdh/SubstantialAmend.htm

NSP Properties

Foreclosed – Primary emphasis

"A property "has been foreclosed upon" at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law." (NSP Notice II. A.)

Other opportunities

Abandoned – “A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.” (NSP Notice II. A.)

Residential Property – (see Appendix 1)

Vacant Property – (see Appendix 1)

Blighted Structure – “A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.”

Subrecipient – HUD Definition

Colorado Usage

Grantee – Entity awarded State NSP funds; all are units of general local government; meet HUD definition of NSP Subrecipient

Sub-Grantee – Public or private entity that receives NSP funds from a Grantee that is not a contractor or developer; administers NSP program but does not carry out activity directly

Contractor – Entity engaged by a Grantee or Sub-Grantee to provide specific services through a contract awarded using required procurement process.

Developer – Entity that carries out an NSP activity; acquires, rehabilitates, and markets eligible property with NSP funds.

NSP Activities

Five categories of NSP uses - activities A – E

(A) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers

(B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties

(C) Establish land banks for homes that have been foreclosed upon

(D) Demolish blighted structures

(E) Redevelop demolished or vacant properties

See related FAQ in Appendix 2

Typical Activity Types – NSP and CDBG eligibility category

Single Unit – Owner Occupied

Single Unit – Renter Occupied

Multiple Unit – Renter

Land Bank

Eligible Property – NSP Eligible Uses by Property Type Appendix 1

NSP Beneficiaries

Modified CDBG income targeting

CDBG up to 80% AMI

Low- and Moderate Income Family/Person: Family or person whose annual (gross) income does not exceed eighty percent (80%) of the median income for the area (adjusted for family size). HUD may establish, on an exception basis, income ceilings higher or lower than eighty percent (80%) of the median income for an area.

NSP up to 120% AMI

Middle-Income Family/Person: Family or person whose annual (gross) income does not exceed one hundred and twenty percent (120%) of the median income for the area (adjusted for family size). HUD may establish, on an exception basis, income ceilings higher or lower than one hundred and twenty percent (120%) of the median income for an area.

Revised Terminology – LMMI – Low- Moderate- and Middle-Income

Serving beneficiaries – CDBG National Objective

Provide **housing** – NSP assisted housing that is occupied by a household within NSP income limit – 120% of AMI

Example 2009 – Denver Metro Area family of 4 – 120% of AMI = $91,200

Low-Moderate-Middle Income (LMMI) National Objective: For the purposes of implementation of NSP, an activity meets HERA's Low-Moderate-Middle Income (LMMI) National Objective if the assisted activity provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income

OR

Improve **area** - Eligible area – 51% of population with income at or below 120% AMI

Example – Land banking, regular property maintenance and security, demolition of blighted structures, temporary use

Low income targeting – 50% AMI – 25% of NSP funds

Definition:
Low-Income Family: Family whose annual (gross) income does not exceed fifty percent (50%) of the median income for the area (adjusted for family size). HUD may establish income ceilings higher or lower than fifty percent (50%) of median income for an area on an exception basis.

Example 2009 – Denver Metro Area family of 4 – 50% of AMI = $38,000

Activities counted toward meeting 25% requirement – completed at time of closeout and:

Property type - foreclosed or abandoned

NSP fund use – purchase or redevelopment

Occupancy – household with income = or > 50% AMI

Income Determination

Use Part 5 (Section 8) definition of income - see NSP contract Section 8.7

Current 120% AMI and 50% AMI income limits included as Appendix 3

Appendix 1 - NSP Eligible Uses by Property Type

	Eligible Uses	Foreclosed Homes and Residential Properties	Abandoned Homes and Residential Properties	Blighted Structures	Demolished Properties	Other Vacant Properties
A	Financing Mechanisms*	Yes	No	Only if Foreclosed	N/A	Only if Foreclosed
B	Purchase and Rehab	Yes	Yes	If Foreclosed or Abandoned	N/A	No
C	Land Bank	Yes – *Foreclosed Homes & other Residential Properties*	No	Only if Foreclosed Home	No	No
D	Demolition	Only if Blighted	Only if Blighted	Yes	N/A	Only if Blighted
E	Redevelopment**	Only if Vacant	Only if Vacant	Only if Vacant	Yes	Yes
	Comments			Locally defined Not limited to residential structures	Not limited to residential structures	Land or structures Not limited to residential properties

NSP Notice Definition: Abandoned*.* A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.

NSP Notice Definition: Foreclosed. A property ''has been foreclosed upon'' at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

Low-income Set-aside (25% of funds for individuals at or under 50% Area Median Income): The legislation says that these funds "shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties". Vacant land under Eligible Use E, must also be foreclosed upon or abandoned for any housing constructed on it to qualify for the set-aside requirement.

Homes and Residential Properties: HUD interprets "homes" as any type of permanent residential dwelling unit, such as detached single family structures, townhouses, condominium units, multifamily rental apartments (covering the entire property), and manufactured homes where treated under state law as real estate (not personal property). "Residential properties" includes all of the above plus vacant land that is currently designated for residential use, e.g. through zoning.

**Use of NSP as a "Financing mechanism" for* "vacant land that is currently designated for residential use, e.g. through zoning, *need not have been previously "developed"*

**"Redevelopment" (E) must be for "demolished" or "vacant" property. The property must be either:
Vacant land that was once developed where prior development has been "demolished;" or
Property with vacant structure(s) on the land

Derived from HUD document:
"Explanation of Property Types under Each Eligible Use" (3/04/09)
Attachment A (page 6 of 6) with additional language and comments in *italics*

Appendix 2 - FAQ Related to Module 1

Posted 11/7/08 **Can NSP1 funds be used for demolition of abandoned properties regardless of whether they have been foreclosed or not?**

Yes, this may be eligible under eligible use D, provided the structures meet a local definition of “blighted”.
[From FAQ 8/12/09 page 13]

Posted 04/21/09 **Can NSP1 funds be used to support land trusts?**

Yes. Land trusts could be classified as financing mechanisms permissible under Eligible use A of NSP1. For example, the land trust could acquire homes or residential land with NSP1 funds. Then build new or rehabilitate existing homes and sell them to NSP1-eligible homebuyers, while retaining ownership of the land. The occupant would own the structure and lease the land. The exclusion of the price of land keeps the overall cost lower, allowing the home to remain affordable long-term.
[From FAQ 8/12/09 page 36]

Posted 10/31/08 **The HERA legislation requires that 25% of the NSP1 funds shall be used for the purchase and redevelopment of residential properties that will be used to house individuals whose incomes do not exceed 50% of area median income. My city would like to purchase residential structures that will eventually be redeveloped by a subrecipient, but expects that the redevelopment or rehabilitation will not take place for several years. Can we assign those units to a subrecipient without being certain of the date of redevelopment and still count them toward the 25% low-income set-aside?**

No. The income targeting requirement is based on actual occupancy. The units could be land banked for up to ten years. However, land banking would not satisfy the 25% set-aside. HUD will determine at grant closeout whether the 25% below 50% requirement has been met. If the houses are not occupied by that time, they will not count toward any housing goal.
[From FAQ 8/12/09 page 37]

Updated 02/03/09 **Is it true that an NSP1 grantee may use NSP1 funds to purchase residential property to be used as a homeless shelter to provide transitional or temporary housing? Is it also true that these funds used for this activity will not count towards the 25% set-aside for very low income households?**

You may acquire residential property under Eligible Use B or non-residential property (vacant land or vacant structures) under Eligible Use E. Under B, you could rehabilitate or reconstruct residential housing that is permanent housing (e.g. permanent supportive housing). In this case, if you can document that the residents are below 50% of area median income it would count toward the 25% set-aside.

Under E, redevelopment, you could construct new transitional or temporary residential facilities. Most shelters are not considered housing, since they are short-term. Similarly transitional or temporary residential programs would not be considered housing for very low-income households.

You could assist with their construction as public facilities, but this would not count toward the 25% set-aside.
[From FAQ 8/12/09 page 37]

Posted 11/7/08 **The HERA law requires that 25% of a grantee's grant must be used for activities that will house individuals or families with incomes at or below 50% of the area median income. The NSP1 program also allows a grantee to use up to 10% of its grant for general administrative and planning expenses. Is the 25% low income targeting requirement applied to the entire grant amount, or only to the 90% of the grant that is not used for general administration?**

The HERA statutory language in question begins with the language "not less than 25 percent of the funds appropriated or otherwise made available under this section…" HUD believes that the 25% low income targeting provision must be counted against the entire grant amount. For example, if a grantee received an NSP1 allocation of $4,000,000, and uses $400,000 for planning and general administration, it has $3,600,000 for specific activities. The grantee must ensure that at least $1,000,000 (25% of $4 million) of its grant is expended for housing for individuals and families with incomes at or below 50% of the area median income. If it were to only expend 25% of the $3.6 million (or $900,000), it would not be in compliance.
From FAQ 8/12/09 page 37-38]

Posted 11/19/08 **How should grantees apply the statutory requirement regarding benefiting persons at or below 120% of AMI to multi-unit housing properties? Does the language in Section 2301(f)(3)(A)(i) of HERA mean that every unit in a multi-unit housing structure must be occupied by individuals or households with incomes at or below 120 percent of area median income?**

Section 2301(f)(3)(A)(i) of the Housing and Economic Recovery Act of 2008 (HERA) requires that "all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whole income does not exceed 120 percent of area median income". Paragraph (ii) of this section further provides that " not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whole incomes do not exceed 50 percent of area median income." HUD has determined that these requirements shall be applied to NSP1-assisted housing activities—those that meet the low- and moderate-income housing national objective criteria—as follows:

Meeting the 120% AMI targeting requirement:

If a structure is assisted in whole or in part with NSP1 funds and it contains one housing unit, that unit must be occupied by a low, moderate or middle income household in order to meet the national objective requirements and the NSP1 income targeting requirement.

If a structure is assisted in whole or in part with NSP1 funds and contains two housing units, at least one unit must be occupied by a low, moderate or middle income household.

If a structure is assisted in whole or in part with NSP1 funds and contains three or more housing units, the proportion of units occupied by low, moderate and middle income households must be equal to or greater than the proportion of NSP1 assistance in the total project development costs borne by NSP1 funds. Thus, if NSP1 funds represent 50% of the total development costs for a project, then at least 50% of the units must be occupied by low, moderate and middle income persons upon completion and occupancy. If NSP1 funds are the sole funding source for a project, then all units must be occupied by low, moderate and middle income persons. If a grantee assists an income eligible homebuyer to buy a foreclosed fourplex, where the owner will live in one unit, and NSP1 funds represent 60% of the acquisition and rehabilitation costs, then 2 of the 3 rental units must be occupied by income eligible tenants; but if NSP1 funds were no more than 25% of the total costs, then none of the rental units need be occupied by income eligible tenants.

Where two or more rental buildings being assisted are or will be located on the same or contiguous properties and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose to be a single structure.

Activities such as acquisition of land, demolition, and installation of infrastructure that are undertaken as a precursor to, or otherwise support the development of housing, may be considered to meet this requirement based on the occupancy of the housing that actually results from these activities.

If a unit is not initially occupied by the time that a grantee's grant is ready for closeout, it cannot be counted as having been occupied by an income-eligible household.

Where a grantee can demonstrate that NSP1 assistance only assisted a specific unit in a multi-unit structure and not the structure as a whole—such as downpayment assistance for a homebuyer to purchase a condominium unit—then only that specific assisted unit must meet the income eligibility requirements.
[From FAQ 8/12/09 page 41-42]

Updated 04/30/09 **How should grantees count multi-unit housing properties toward the requirement to expend 25% of NSP1 funds for housing for persons at/below 50% of AMI? Do the requirements of Section 2301(f)(3)(A)(ii) mean that a grantee can only count expenditures toward the low-income housing targeting requirement if every unit in a multi-unit structure is occupied by a low-income individual or household?**
Meeting the 50% AMI targeting requirement:

In order to be countable toward the low-income targeting requirement, the NSP1 funds must be used for the purchase or redevelopment of abandoned or foreclosed homes or residential properties. Redevelopment of non-residential properties or residential properties that are not abandoned or foreclosed upon cannot be counted toward meeting this requirement.

In order to be countable toward the low-income targeting requirement, the housing must be permanent housing that meets the LMMH national objective criteria. Homeless shelters, group homes for the developmentally disabled, etc. that are categorized as eligible public facilities cannot be counted toward meeting this requirement.

If a structure is assisted in whole or in part with NSP1 funds and contains one housing unit, that unit must be occupied by a low income household (at or below 50% of AMI) in order to count NSP1 expenditures for the activity toward the low- income targeting requirement. In this case, 100% of the NSP1 expenditures can be counted toward this requirement.

If a structure is assisted in whole or in part with NSP1 funds and contains two or more housing units, the proportion of NSP1 funds to the total development costs that can be counted toward the low-income targeting requirement is equal to the proportion of units occupied by low income households. If 30% of total development costs come from NSP1 funds, then 30% of the units in a multi-unit structure must be occupied by low-income households in order to count toward the low-income targeting requirement.

For purposes of this requirement, it is irrelevant whether NSP1 funds are the sole funding source or are combined with other funds.
[From FAQ 8/12/09 page 43]